

AMENDED IN SENATE AUGUST 23, 2004  
AMENDED IN SENATE AUGUST 17, 2004  
AMENDED IN SENATE JULY 15, 2004  
AMENDED IN SENATE JULY 12, 2004  
AMENDED IN SENATE JUNE 22, 2004  
AMENDED IN SENATE MAY 24, 2004  
AMENDED IN ASSEMBLY JANUARY 22, 2004  
AMENDED IN ASSEMBLY JANUARY 14, 2004  
AMENDED IN ASSEMBLY JANUARY 5, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 338**

---

**Introduced by Assembly Member Levine**

February 11, 2003

---

An act to add Section 42703 to the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 338, as amended, Levine. Recycling: crumb rubber.

Existing law requires the State Procurement Officer, in purchasing any materials to be used in paving or paving subbase for use by the Department of Transportation and any other state agency that provides road construction and repair services, to make contracts available that utilize recycled materials, including crumb rubber, unless the Director

of Transportation determines that the use of the materials is not cost effective based on specified factors.

This bill would define the term “asphalt containing crumb rubber” and would require the department to require the use of asphalt containing crumb rubber at a specified percentage, by ton, of the total amount of asphalt paving materials used for state highway and construction projects that use asphalt as a construction material. The bill would require the amount of asphalt containing crumb rubber, on and after January 1, 2006, to be not less than 20% of the total amount of asphalt paving materials used, ~~on and after January 1, 2008, not less than 30%, on and after January 1, 2010, not less than 40%, and on and after January 1, 2012, not less than 50%.~~ *The bill would require the Secretary of Business, Transportation, and Housing, on or before January 1, 2009, to prepare a specified analysis comparing the cost differential between asphalt containing crumb rubber and conventional asphalt, including specified information. The bill would require the secretary to continue to prepare that analysis annually until the time that the secretary determines that the cost of asphalt containing crumb rubber does not exceed 10% of the cost of conventional asphalt.*

*The bill would require the amount of asphalt containing crumb rubber, on and after January 1, 2009, to be not less than 25% of the total asphalt paving materials used, and on and after January 1, 2012, not less than 35%, except as provided.*

The bill would direct the department, if a state highway or construction project utilizes crumb rubber, to require the project to use crumb rubber manufactured in the United States that is derived from waste tires taken from vehicles owned and operated in the United States, unless the department determines that use of that material for a particular project is not cost effective.

The bill would require the department and the California Integrated Waste Management Board to develop procedures for using crumb rubber and other tire derived products in other projects and would require the department to notify and confer with the East Bay Municipal Utility District before using asphalt containing crumb rubber on a state highway construction or repair project that overlays district infrastructure.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Thirty-two million scrap tires are currently generated in California each year.

(b) By the year 2020, more than 43,000,000 scrap tires will be generated each year in California.

(c) There are currently up to 6,000,000 tires in legal and illegal scrap tire piles.

(d) Twenty-five percent of California scrap tires, more than 8,000,000 tires, are disposed of in landfills or stockpiled in legal or illegal dumps.

(e) Crumb rubber from recycled scrap tires can be used as an additive for making asphalt for highway construction and repair.

(f) It is state policy to not discard scrap tires in landfills or legal or illegal stockpiles, and to find alternative uses for recycling tires that have been generated in California.

SEC. 2. *It is the intent of the Legislature that the Department of Transportation explore all feasible means to stimulate increased usage of crumb rubber throughout the 12 regional districts to help expand the marketplace for crumb rubber in the state.*

SEC. 3. Section 42703 is added to the Public Resources Code, to read:

42703. (a) Except as provided in subdivision (c), the Department of Transportation shall require the use of asphalt containing crumb rubber in lieu of other materials at the following levels for state highway construction or repair projects that use asphalt as a construction material:

(1) On and after January 1, 2006, not less than 20 percent, by ton, of the total amount of asphalt paving materials used shall be asphalt containing crumb rubber.

~~(2) On and after January 1, 2008, not less than 30 percent, by ton, of the total amount of asphalt paving materials used shall be asphalt containing crumb rubber.~~

~~(3) On and after January 1, 2010, not less than 40 percent, by ton, of the total amount of asphalt paving materials used shall be asphalt containing crumb rubber.~~

~~(4) On and after January 1, 2012, not less than 50 percent, by ton, of the total amount of asphalt paving materials used shall be asphalt containing crumb rubber.~~

(2) *On and after January 1, 2009, not less than 25 percent, by ton, of the total amount of asphalt paving materials used shall be asphalt containing crumb rubber.*

(3) *On and after January 1, 2012, not less than 35 percent, by ton, of the total amount of asphalt paving materials used shall be asphalt containing crumb rubber.*

(b) (1) *The Secretary of Business, Transportation and Housing shall, on or before January 1, 2009, and annually thereafter, prepare an analysis comparing the cost differential between asphalt containing crumb rubber and conventional asphalt. The analysis shall include, at a minimum, all of the following:*

*(i) The lifespan and duration of the asphalt products.*

*(ii) The maintenance cost of the asphalt products.*

*(iii) The quantity of asphalt product needed per mile paved.*

(2) *The secretary shall continue to prepare the analysis required by paragraph (1) annually until the time that the secretary determines that the cost of asphalt containing crumb rubber does not exceed 10 percent of the cost of conventional asphalt.*

(3) *Notwithstanding subdivision (a), if after completing the analysis required by paragraphs (1) and (2), the secretary determines that the cost of asphalt containing crumb rubber exceeds 10 percent of the cost of conventional asphalt, then the Department of Transportation shall continue to meet the requirement specified in paragraph (1) of subdivision (a), and shall not implement the requirement specified in paragraph (2) of subdivision (a). If the secretary determines pursuant to an analysis prepared pursuant to paragraphs (1) and (2), that the cost of asphalt containing crumb rubber does not exceed 10 percent of the cost of conventional asphalt, then the Department of Transportation shall implement paragraph (2) of subdivision (a) within one year of that determination, but not before January 1, 2009.*

(4) *Notwithstanding subdivision (a), if the Department of Transportation delays the implementation of paragraph (2) of subdivision (a), then paragraph (3) of subdivision (a) shall be delayed until three years after the date the department implements paragraph (2) of subdivision (a).*

~~(b)~~—

(c) (1) Except as provided in paragraph (2) and subdivision ~~(e)~~ ~~(d)~~, if a state highway or construction project utilizes crumb rubber, the Department of Transportation shall require the project to use crumb rubber manufactured in the United States that is derived from waste tires taken from vehicles owned and operated in the United States, in a manner otherwise consistent with this article.

(2) Paragraph (1) does not require the use of crumb rubber manufactured in the United States that is derived from waste tires taken from vehicles owned and operated in the United States, for a particular project, if the Department of Transportation determines that use of that material is not cost effective pursuant to subdivision (a) of Section 42701.

~~(e)~~—

(d) The Department of Transportation and the board shall develop procedures for using crumb rubber and other derived tire products in other projects.

~~(d)~~—

(e) The Department of Transportation shall notify and confer with the East Bay Municipal Utility District before using asphalt containing crumb rubber on a state highway construction or repair project that overlays district infrastructure.

~~(e)~~—

(f) For purposes of this section, “asphalt containing crumb rubber” means a paving material that uses an asphalt rubber binder containing an amount of reclaimed tire rubber that is 15 percent or more by weight of the total blend, and that meets other specifications *for both the physical properties of asphalt rubber and the application of asphalt rubber*, as defined in American Society for Testing and Materials (ASTM) Standard Specification for Asphalt-Rubber Binder.

